IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 450 OF 2007

IN

APPEAL FROM ORDER NO. 94 OF 2001

M/s Satguru Development Corporation .. Applicant

V/s

Vasudeo Gopal More & Anr. .. Respondents

Mr.R.S. Apte i/b Mr.A.R. Gole for the applicant.

Mr.P.N. Joshi for the respondents.

CORAM : D.G. KARNIK, J.

DATE : 6TH JULY 2007

P.C. :

1. Heard learned counsel for the parties.

2. This application is in the nature of a review of an order dated 12th October 2006 which was passed in the absence of the applicant-original appellant. By that order, firstly the appeal of the applicant was dismissed under Order 41 Rule 17 of the Code of Civil Procedure and thereafter cross objections were also dismissed.

3. Mr.Apte for the applicant submitted that sufficient cause is made out for condonation of the

absence of the applicant and for restoring the appeal to file for being heard on merits. Mr.Joshi for the respondents strongly opposes the request for restoration and submits that if the appeal is to be restored, the entire appeal with cross objections should also be restored and reheard. He submitted that the cross objections were not seriously canvassed in view of the fact that the appeal was being dismissed under Order 41 Rule 17 of the Code of Civil Procedure and if the appeal is to be restored, he would like to canvass the cross objections seriously. Mr.Apte has no objection for rehearing of the cross objections also afresh.

4. In the circumstances, the civil application is allowed. The order dated 12th October 2006 in its entirety is recalled and the appeal with cross objections are restored to the file.

(D.G. KARNIK, J.)